

VII. PRIVATE SCHOOLS

This section applies to children with disabilities who attend private or parochial schools or who are home schooled.

1. CHILDREN PLACED IN APPROVED PRIVATE AGENCIES BY PUBLIC AGENCIES

Responsibility of the SEA (34 CFR 300.401)

This agency ensures that when a child with a disability is placed in or referred to an approved private agency, the child will be provided special education and related services in conformity with an individualized education program and at no cost to parents. Each child will be provided an education that meets the standards that apply to education provided by the SEA and Responsible Public Agency and each child will have all of the rights of a child with a disability who is served by the public agency.

Responsibility of the LEA

This agency assures that it will contract with only those private agencies that have been approved by the State Board of Education.

2. LEA REQUIREMENTS TO PROVIDE SERVICES TO PRIVATE SCHOOL STUDENTS (Not applicable for charter schools, state board operated programs, and other state agencies)

To the extent consistent with their number and location in the local district, provision will be made for the participation of private school children with disabilities in the program assisted or carried out under Part B IDEA by providing them with special education and related services.

This agency ensures that a services plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services.

NOTE: While IDEA does not provide an individual entitlement to such private school students and IDEA compliance requires only that services provided represent a proportionate share as explained below under "Expenditures," school districts need to consider the extent of services required under Missouri law.

A. General

This agency shall consult, in a timely and meaningful way, with appropriate representatives of private school children with disabilities in light of the funding identified to serve private school children with disabilities, the number of private school children with disabilities, the needs of private school children with disabilities, and their location to decide:

- 1) Which children will receive services;
- 2) What services will be provided;
- 3) How and where the services will be provided; and,
- 4) How the services provided will be evaluated.

B. Genuine opportunity

This agency shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements in this section.

C. Timing

The consultation with private school representatives shall occur before this agency makes any decision that affects the opportunities of private school children with disabilities to participate in services.

D. Decisions

This agency shall make the final decisions with respect to the services to be provided to eligible private school children.

If a child with a disability is enrolled in a religious or other private school and will receive special education or related services from this agency, the agency shall initiate and conduct meetings to develop, review, and revise a services plan for the child, and ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, this agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

Services Provided (34 CFR 300.455)

The services provided to private school children with disabilities will be provided by personnel meeting the same standards as personnel providing services in the public schools. Private school children with disabilities may receive a different amount of services than children with disabilities in public schools. No private school child with a disability is entitled under IDEA to any service or to any amount of a service the child would receive if enrolled in a public school.

Each private school child with a disability who has been designated to receive services will have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that have been determined to be accessed by the private school child with disabilities. The services plan will, to the extent appropriate, meet the requirements specified for an IEP with respect to the services provided, and be developed, reviewed, and revised consistent with requirements for IEPs.

Location of Services; Transportation (34 CFR 300.456)

Missouri case law and the Missouri Constitution prohibit the provision of services, equipment and personnel on-site at a child's private school.

If necessary for the child to benefit from or participate in the services provided under this part, a private school child with a disability will be provided transportation from the child's school or the child's home to a site other than the private school; and from the service site to the private school, or to the child's home, depending on the timing of the

services. This agency is not required to provide transportation from the child's home to the private school. The cost of the transportation may be included in calculating whether the agency has met the expenditure requirement.

Use of Funds

This agency will not use funds available under Section 611 or 619 IDEA:

- A. for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site, and the classes include students enrolled in public schools and students enrolled in private schools (34 CFR 300.458); and,
- B. to finance the existing level of instruction in the private school, or to otherwise benefit the private school (34 CFR 300.459).

This agency may use funds available under Sections 611 and 619 of IDEA

- A. to make public school personnel available to the extent necessary to provide the special education and related services for private school children pursuant to this section. Public employees and services will be made available to students in the private school before school, after school, during school, on Saturdays, or during the summer on the grounds of the public school or a neutral site, at the discretion of the school district (34 CFR 300.460).

NOTE: The Missouri Constitution at Article I, Section 7, and Article IX, Section 8, prohibits the placement of public personnel, services, equipment and supplies or the provision of services in private/parochial schools. See SSD v Wheeler, 408 S.W. 2d. 60 (MO 1966), McVey v Hawkins, 258 S.W. 2d. 927 (Mo. banc 1953), Mallory vs. Barrera, 544 S.W. 2d. 556, and Brusca vs. State of Missouri ex rel. State Board of Education, 332 F. Supp. 275, affirmed 405 US 1050.

Use of Private School Personnel (34 CFR 300.461)

- A. This agency may use funds to employ personnel employed at the private school to provide services if:
 - 1) the private school employee performs the services outside of his or her regular hours of private school duties;
 - 2) the services are provided on public school grounds or a neutral site; and,
 - 3) the employee performs the services under public supervision and control.

Equipment/Supplies/Construction for the Benefit of Private School Children with Disabilities (34 CFR 300.462)

This agency must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the public agency acquires with funds under Section 611 or 619 of IDEA for the benefit of private school children with disabilities.

This agency shall spend no funds for repairs, construction, or minor remodeling of private school facilities.